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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/665,701	09/19/2003	Socng-Hun Kim	678-1262(P10929)	6042
66547 7590 09/25/2007 THE FARRELL LAW FIRM, P.C. 333 EARLE OVINGTON BOULEVARD SUITE 701 UNIONDALE, NY 11553			EXAMINER WIN, AUNG T	
			ART UNIT 2617	PAPER NUMBER
			MAIL DATE 09/25/2007	DELIVERY MODE PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary

Application No.

10/665,701

Applicant(s)

KIM ET AL.

Examiner

Aung T. Win

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 25 June 2007.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-25 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-25 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☒ None of:
- 1) ☒ Certified copies of the priority documents have been received.
 - 2) ☐ Certified copies of the priority documents have been received in Application No. _____.
 - 3) ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date _____
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: _____

DETAILED ACTION

Priority

Acknowledgment is made of applicant's claim for foreign priority based on an application filed in Republic of Korea on 09/19/2002. It is noted, however, that applicant **has not filed a certified copy of the 2002-57182 application as required by 35 U.S.C. 119(b).**

Response to Arguments

Applicant's arguments filed 06/25/2007 have been fully considered but they are not persuasive.

In response to applicant's argument that the references fail to show certain features of applicant's invention, it is noted that the features upon which applicant relies (i.e., Terry fails to disclose measuring the total transmission power **in a base station** according to the measurement command from a Radio network Controller (RNC) **OR** Bark fails to disclose measuring transmit power **in a base station** and reporting the measured transmit power in order for controlling the power **OR** the modified system and method fails to disclose or suggest switching transmission scheme according to the total transmission power used to MBMS service **within cells**) are not recited in the rejected claim(s). Although the claims are interpreted in light of the specification, limitations from the specification are not read into the claims. See *In re Van Geuns*, 988 F.2d 1181, 26 USPQ2d 1057 (Fed. Cir. 1993).

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

1. Claims 1- 25 are rejected under 35 U.S.C. 103(a) as being unpatentable over Terry (US20040116125A1) in view of Bark et al. (US006445917B1).

1.1 Regarding Claims 1, 6 & 7, Terry discloses a method for switching user equipment (UE) transmission scheme between point-to-point (PTP) scheme and point-to-multipoint (PTM) scheme, by a Node B [figure 2], which provides an MBMS (Multimedia Broadcast/Multicast Service) service to the user equipment. Terry discloses that mobile system determining the type transmission scheme according to a number of at least one UE receiving the MBMS service within the cell [Switching criteria: numbers of users in a cell and/or other cell information such as information on cell conditions, available sources, etc. (0016 – 0023)]. Terry does not explicitly disclose sending a request for switching the transmission scheme to the RNC based on received measurement command from the RNC.

Bark discloses channel-switching method [switching from a dedicated to a common channel or vice versa: Column 7, Line 10] for mobile system if predetermined condition is satisfied. Bark discloses RNC sending a measurement control message to the mobile including parameters to measure [Parameters includes transmit power:

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Column 8, Line 36-45] and the predetermined condition that trigger the mobile station to send report message [Additional factor included in measurement control message for mobile station to determine if predetermined condition is satisfied for sending a report message: Column 3, Line 45-60]. Bark further discloses that Mobile sends warning report message (i.e., request message) to RNC if the mobile station output power is larger than a threshold: [Column 11, Line 40-44] [Column 12, Line 2-5]. Therefore, it is obvious to one of ordinary skill in the art that additional factor as taught by Bark include output power threshold. Bark also discloses a measurement control message includes reporting interval i.e., claimed waiting time [time-to-trigger condition: Column 9, Line 44-58]. It is obvious to one of ordinary skill in the art that sending reporting interval provided in control message commands the mobile when to take measurement and when to stop taking measurement therefore, sending reporting interval to mobile teaches sending measurement command and sending delete command as claimed. Bark teaches switching from PTP to PTM based on received power measurement information regarding assigned channel (i.e., total power in dedicated channel because mobile is operating in PTP mode).

Therefore, it would have been obvious to one of ordinary skill in the art at the time of invention of made to modify Terry's method with Bark's method to send message to RNC for channel switching if transmit power of mobile station output power is larger than the provide threshold as claimed. One of ordinary skill in the art at the time of invention of made to do this to reduce interference and to optimize network performance.

1.2 Claims 8, 13, 14, 19, 20 & 25 are rejected for the same reasons as stated above in Claim 1 rejection because claimed method is substantially close to corresponding method of Claim 1. Because RNC communicates mobile station via Node B [Terry: Figure 2], it is obvious to skill in the art that Node B receives measurement command (as stated in Claim 1 rejection) from RNC for further routing the message to mobile station for measurement.

1.3 Claims 2, 9, 15, 21 are rejected as stated above in Claim 1 rejection. Modified method discloses a measurement control message includes reporting interval i.e., claimed waiting time [Bark: time-to-trigger condition: Column 9, Line 44-58]. It is obvious to one of ordinary skill in the art that sending reporting interval provided in control message commands the mobile when to take measurement and when to stop taking measurement therefore, sending reporting interval to mobile teaches sending measurement command and sending delete command as claimed.

1.4 Claims 3, 4, 5, 10, 11, 12, 16, 17, 18, 22, 23 & 24 are rejected as stated above in Claim 1 rejection because modified method discloses radio link indicator that identify the MBMS service and unique MBMS indicator for identifying active user for MBMS service [Terry: 0022].

Conclusion

THIS ACTION IS MADE FINAL. Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Aung T. Win whose telephone number is (571) 272-7549. The examiner can normally be reached on 8:30 AM - 5:00 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Duc Nguyen can be reached on (571) 272-7503. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.



DUC M. NGUYEN
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Aung T. Win
Group Art Unit 1617
September 17, 2007